

Appl. No. 09/856,781
Amdt. dated February 22, 2005
Reply to Office Action of Aug. 23, 2004

REMARKS

This is in response to the Non-Final Office Action dated August 23, 2004. Applicant is submitting this response in order to place the case in condition for Allowance or Appeal.

In the Office Action, the Examiner rejected claims 1-6, 8-15, 17-23 25-34 and 44 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,585,115 to Heikkila et al. Furthermore claimed 7, 16, 24 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,585,155 to Heikkila et al. in view of U.S. Patent No. 6,344,268 to Stucky et al.

Applicant acknowledges the rejection of the Examiner and respectfully traverses. In this response, applicant has amended independent claims 1, 18 and 44, and has added new independent claim 45 in order to place the case in condition for allowance.

In the previous Final Office Action, the Examiner stated that the prior art does not require anything external to it to provide reinforcement. In this non-final action, the Examiner stated that the prior art shows a panel having an outer shell and a core. He notes that these two components, as combined do not have a hollow core, "but, since the prior art is made of two difference pieces, the outer piece has a hollow core which is intended for a core piece to be inserted." The Examiner notes further that the chopped fiber element added to the claims are found in types of fiber glass. Chopped glass fibers are not new in the art and are commonly used in making of fiber glass products. First, applicant would like to incorporate by reference thereto applicant's arguments made in response to the Final Action dated January 6, 2004, rather than reiterate those arguments.

Furthermore, applicant would note that Heikkila discloses an element consisting of a fibre-reinforced core of thermoplastics plastics material and in addition, an exterior reinforcing layer formed by pultrusion. Clearly, had the fibre-reinforced core alone been capable of providing sufficient strength, Heikkila would not also have provided an exterior reinforcing layer of continuous filament glass fibre, particularly as pultrusion is an expensive process. The core of Heikkila, therefore, does not and cannot constitute an element having a high flexural modulus, such as 4000MPa and above as provided in the claims of the present invention. Nor does Heikkila teach that the core alone could be used as a load bearing structural element as is claimed herein.

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In addressing the comments made by the Examiner in response to applicant's arguments, and in support of the patentability of the claims in the case, including new claim 45, applicant is submitting a declaration of a person skilled in the art, John E. Elson, which states, under oath, the reasons why a person skilled in the art would consider the invention of Mr. Smith to be patentable over the prior art of Heikkila '155 patent alone or in combination with the Stucky '268 patent.

Additionally, a declaration by the inventor, James Leonard Smith, is being submitted to address the novelty of the invention over the prior art.

Rather than discuss the evidence provided in these declarations by argument of counsel, it is clear that these two declarations speak for themselves and offer irrefutable evidence that the invention as claimed should be patentable over the prior art cited by the Examiner.

Therefore, applicants would assert that clearly, the combination as taught by the present invention is not obvious over the prior art cited. There is no remote suggestion in Heikkila et al that the structural member as disclosed can perform as expected without the reinforcement layer as described in the patent.

Furthermore, "[T]hat all elements of an invention may have been old (the normal situation), or some old and some new, or all new, is however, simply irrelevant. Virtually all inventions are combinations and virtually all are combinations of old elements. A court must consider what the prior art as a whole would have suggested to one skilled in the art." *Environmental Designs, Ltd. v. Union Oil Co.*, 218 USPQ 865, 870 (CAFC 1983). "Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. Under [35 U.S.C.] Section 103, teachings of references can be combined only if there is some suggestion or incentive to do so." *ACS Hospital Systems v. Montefiore Hospital*, 221 USPQ 929, 933 (CAFC 1984) and cases cited therein (emphasis in original). Applicant has carefully examined the Heikkila patent cited, and can find neither a teaching nor suggestion why it would be obvious to undertake the combination as claimed in the present invention, either alone or in combination with the patent to Stucky et al.

Further, in view of the fact that the independent claim 1 have been amended to claim over the prior art, applicant feels that all of the claims 1-44, rejected by the Examiner, are now patentable over

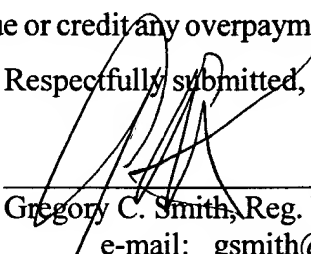
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the art cited. Also, new claim 45, as presented, is likewise patentable over the prior art cited.

In view of the amendments and arguments of counsel, applicant requests re-examination of the application, and a notice of allowance.

Enclosed is our Check No. 9220 in the amount of \$795.00. However, if this amount is insufficient, please charge any fees due or credit any overpayment to Deposit Account No. 50-0694.

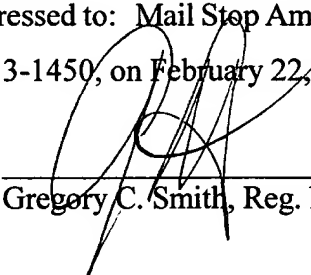
Respectfully submitted,



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I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on February 22, 2005.



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